

WAGSTAFF LAW FIRM

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

**IN RE: UBER TECHNOLOGIES, INC.
PASSENGER SEXUAL ASSAULT
LITIGATION**

This Document Relates to:

*M.J. v. Uber Technologies, Inc., et al., No.
3:25-cv-08088-CRB*

Case No. 3:23-md-03084-CRB

**NOTICE OF MOTION AND MOTION TO
WITHDRAW AS COUNSEL FOR
PLAINTIFF M.J.**

Judge: Hon. Charles R. Breyer

Courtroom: 6 – 17th Floor

TO ALL PARTIES AND THEIR COUNSEL OF RECORD, PLEASE TAKE NOTICE

that on Friday, December 12, 2025 at 10:00 a.m., by videoconference (accessible at <https://cand-uscourts.zoomgov.com/j/1611472837pwd=cy81NUdINWZmeEpFUjlHRXM3djZ5QT09>), before the Honorable Charles R. Breyer, in Courtroom 6 of this Court, or as soon thereafter as the matter may be heard, Wagstaff Law Firm, counsel of record for Plaintiff M.J. (“Plaintiff”), moves this Court for an order permitting its withdrawal as counsel for Plaintiff. This Motion is made pursuant to Local Rule 11-5(a) and California Rules of Professional Conduct 1.16(b)(2), 1.16(b)(4) and 1.16(d). This Notice of Motion & Motion is based on the below Memorandum in Support and the accompanying Declaration of Sommer D. Luther (“Decl.”), attached hereto as Exhibit A. A Proposed Order is attached as Exhibit

B.

MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL

Pursuant to Local Civil Rule 11-5(a) and California Rules of Professional Conduct 1.16(a)(1), 1.16(b)(4), and 1.16(d), Wagstaff Law Firm submits this Memorandum of Points and Authorities in support of its Motion to Withdraw as Counsel for Plaintiff M.J. Wagstaff Law Firm respectfully requests the Court grant the Motion.

STATEMENT OF FACTS

Wagstaff Law Firm currently represents Plaintiff M.J.. Plaintiff's claims were filed in the United States District Court for the Northern District of California as Case No. 3:25-cv-08088 on September 23, 2025. Plaintiff's case was consolidated into the multidistrict litigation *In re: Uber Technologies, Inc. Passenger Sexual Assault Litigation*, Case No. 3:23-md-3084, on September 24, 2025. *See* Case No. 3:25-cv-08088 Dkt. 5; *see also* Case No. 3:23-md-3084 Dkt. 4023.

Wagstaff Law Firm has not been able to reach Plaintiff as needed to prosecute her case. *See* Ex. A, Declaration of Sommer D. Luther ("Luther Decl.") at ¶ 2-8. Wagstaff Law Firm has repeatedly attempted to reach out to this client to obtain needed information from Plaintiff and to explain why Plaintiff's participation is necessary to prosecute Plaintiff's claim. *Id.* Wagstaff Law Firm has attempted to contact Plaintiff on numerous occasions during the past five months via phone calls, emails, SMS text messages, and letter correspondence. *Id.* During that period, undersigned counsel has also become concerned that certain information Plaintiff provided to counsel may not have been accurate. Luther Decl. ¶¶4-5.

On September 29, 2025, Wagstaff Law Firm sent a letter to Plaintiff via FedEx advising Plaintiff of the firm's need to withdraw as counsel if Plaintiff did not contact the firm immediately. Luther Decl. ¶6. To date, Plaintiff M.J. has not contacted Wagstaff Law Firm, has not agreed to dismiss her case voluntarily, and the undersigned is not aware if Plaintiff M.J. has retained another firm. Wagstaff Law Firm thus remains counsel of record for Plaintiff M.J. However, Wagstaff Law Firm remains unable to

1 reach her Pursuant to Local Civil Rule 11-5(a), Wagstaff Law Firm advised Uber of its intent to
2 withdraw prior to the filing of this motion on October 29, 2025. Luther Decl. ¶10.

3 ARGUMENT

4 Wagstaff Law Firm should be permitted to withdraw as counsel for Plaintiff. An attorney may
5 withdraw from a case by obtaining an order from the Court after reasonable advanced written notice has
6 been provided to the client and to all other parties. Civ. L.R. 11-5(a). Attorneys practicing before this
7 Court are also required to adhere to the California Rules of Professional Conduct. Civ. L.R. 11-4(a)(1).
8 Those rules permit a lawyer to seek leave to withdraw under certain circumstances, including when
9 communication with a client has irrevocably broken down, so long as the lawyer “has taken reasonable
10 steps to avoid reasonably foreseeable prejudice to the rights of the client.” Cal. Rules. Prof. Conduct
11 1.16(a)-(b) and 1.16(d).
12

13 Wagstaff Law Firm has made repeated, diligent, but ultimately unsuccessful attempts to contact
14 Plaintiff, and has given appropriate advance notice of its intent to withdraw, culminating with final
15 notice on September 29, 2025. Luther Decl. ¶6. Wagstaff Law Firm is unable to continue pursuing this
16 case on behalf of a client who will not contact her lawyers. Luther Decl. ¶¶ 2-8. In short, Wagstaff Law
17 Firm has reached out to Plaintiff M.J. on numerous occasions over five months but has received no
18 reply. Luther Decl. ¶¶ 2-8.
19

20 As a result, Wagstaff Law Firm has been unable to obtain the information required to prosecute
21 Plaintiff’s case and communicate with Plaintiff about this litigation. Luther Decl. ¶¶ 2-8. Plaintiff’s
22 conduct thus falls into the express terms of Rule 1.16 regarding permissive withdrawal. *See* Cal. R. Prof.
23 Conduct 1.16(b)(4). Because this motion is not accompanied by a substitution of counsel or an
24 agreement by Plaintiff to proceed pro se, Wagstaff Law Firm does not object to an order under Local
25 Rule 11-5(b) requiring the firm to serve Plaintiff with all papers in this matter, unless or until Plaintiff
26 appears pro se, other counsel appears on Plaintiff’s behalf, if the Court wishes to impose such a condition
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28

on the firm's withdrawal. *See* Luther Decl. ¶ 11.

CONCLUSION

Wagstaff Law Firm respectfully requests that the Court enter an order terminating its representation of Plaintiff and allowing Plaintiff 30 days to retain new counsel.

Dated: October 29, 2025

Respectfully submitted,

/s/ Sommer D. Luther
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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2025, I electronically filed the following with the Clerk of the Court using the CM/ECF system, which will send notification of such filing via electronic mail to all counsel of record as maintained in the CM/ECF electronic system.

Dated: October 29, 2025

/s/ Sommer D. Luther
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